REMARKS

This responds to the Office Action mailed on September 13, 2005, and the references cited therewith.

§102 Rejection of the Claims

Claims 1-8, 11, 14-17, 21-29, 31-32, 40-45, 47 and 55-58 were rejected under 35 U.S.C. § 102(e) for anticipation by Epinions.com (hereinafter, "Epinion").

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991).

The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP ' 2131.

Claim 1 recites, "deriving a community rating uniquely corresponding to a particular user by aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community." (emphasis added)

In contrast, Epinion describes a web site configured to allow users to present reviews of products to other users of Epinion. Optionally, those other users may provide a response indicating he/she trusts the originator of the review and may also indicate an approval level of the individual reviews themselves (e.g., "very useful"). A user's page displays who the user trusts and who trusts the user (see reference, page 9). The "web of trust" created extends only to those users that have made direct contact with the "trusted" user's opinions and vice versa. In other words, the trusted users are not one or more users referred by the particular user to the online trading community, as recited in claim 1.

Merriam-Webster's online dictionary defines "referral, referred" as, "to send or direct for treatment, aid, information, or decision <*refer* a patient to a specialist>..." (http://www.m-w.com/dictionary/referring, emphasis added). Epinions does not discuss, "one or more users referred by the particular user to the online trading community," as recited in claim 1. There is

nothing in Epinions to suggest that a user, such as Bonies7 (page 10), has referred, sent, or directed any other users to the Epinions "community." Merely "backing" another user by providing feedback on his/her review is clearly not a referral (referred) as plainly defined in Merriam-Webster's definition.

The Office Action states, "The community ratings uniquely correspond to the user and use one or more rating values associated with the user. For example, a community rating is seen on the bottom of page 10, where the 11/22/99 review of Bonies7 is considered very useful by the community." There is nothing in Epinions to indicate that one or more user's ratings of the usefulness of one or more reviews determine a community rating of the reviewer (e.g., Bonies7), much less a community rating of the reviewer based on an aggregate of one or more characteristic values. A user becomes trusted to second user simply by the second user indicating so through a "click" of a link (see page 5). In other words, one or more users ratings of the usefulness of a reviewer's opinion is not, "deriving a community rating uniquely corresponding to a particular user by aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community," as recited in claim 1. (emphasis added)

Although a user may be made "an Epinions Expert," Epinions reference defines, "an Epinions Expert is someone Epinions.com has selected based on the quantity and quality of his or her opinions. Consideration is also given to a user's ratings of reviews. An expert knows how to separate the truly "Very Useful" reviews from the so-so reviews. Currently, Epinions Experts are chosen by the category producers. Over time, they will be selected by the Epinions.com community." Therefore, the rating of "expert" is not derived from, "aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user," as recited in claim 1, but from a person, the category producer.

Therefore, for at least these reasons, claim 1 and all claims dependent therefrom are patentable over Epinions. The same arguments that applied to claim 1 also applicable to independent claims 14, 22, 28, 40, 42, and 55 and their associated dependent claims.

§103 Rejection of the Claims

Claims 33-39, 48-51 and 53-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Epinions.com (hereinafter, "Epinions").

Claims 9-10, 46, 52 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Epinions.com in view of Aho et al. (_Data Structures and Algorithms_) (hereinafter, "Aho").

The Examiner has the burden under 35 U.S.C. § 103 to establish a _prima facie_ case of obviousness. _In re Fine_, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To do that the Examiner must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. _Id._

The _Fine_ court stated that:

> Obviousness is tested by "what the combined teaching of the references would have suggested to those of ordinary skill in the art." _In re Keller_, 642 F.2d 413, 425, 208 USPQ 871, 878 (CCPA 1981)). But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." _ACS Hosp. Sys._, 732 F.2d at 1577, 221 USPQ at 933. And "teachings of references can be combined _only_ if there is some suggestion or incentive to do so." _Id._ (emphasis in original).

The M.P.E.P. adopts this line of reasoning, stating that:

> In order for the Examiner to establish a _prima facie_ case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. _M.P.E.P._ § 2142 (citing _In re_

Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Applicant respectfully submits that the Office Action does not make out a *prima facie* case of obviousness for at least the reason that Epinions alone or in combination with Aho fails teach or suggest every element of each of the independent claims, as contended in the Office Action (OA).

Adding what is taught in Aho fails to cure the defects of Epinions, therefore Epinions in view of Aho fails to render the present claims obvious. Aho discusses trees representing a hierarchal structure. However, Aho does not discuss, "associating one or more characteristic values with each user of a plurality of users of an online trading community, the one or more characteristic values representing an individual rating associated with each user; and deriving a community rating uniquely corresponding to a particular user by aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community.

Independent claims 33 and 48 have substantially similar limitations to claim 1 and therefore most if not all the arguments that applied to claim 1 with respect to Epinions also applies to these independent claims and their associated dependent claims. Consequently, these claims are patentable over Epinions in view of Aho.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-373-6900 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

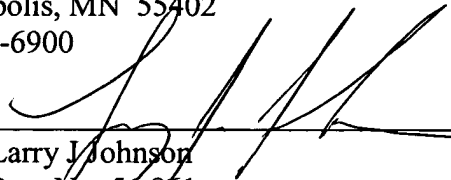ROBERT J RATTERMAN ET AL.

By their Representatives,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 13th day of January, 2006.

Dawn R. Shaw

Name   Signature